

MINUTES
ZONING COMMISSION
APRIL 6, 2011 - 7:00 P.M.
TOWN HALL ANNEX – COMMUNITY ROOM 2

I. ROLL CALL

Present: French, Haviland, Marquardt, O'Neill, Sutherland
Absent: Cady, Hudecek,
Staff: Davis, Murphy, Gilot

Acting Chairman Haviland called the meeting to order at 7:04 p.m. and seated Sutherland for Hudecek.

II. PUBLIC HEARING

1. Special Permit #319, 1073 Buddington Road, PIN 169906370693, CB-15 Zone and 0 Buddington Road, PIN 169910268975E, RU-20 Zone. Proposal is for expansion of a non-permitted use within an existing building. Review is per Section 6.12-6 of the Zoning Regulations. (New England Cycle Works, Applicant)

Acting Chairman Haviland explained the public hearing procedures and read the legal ad.

Ellen Bartlett, CLA Engineering, represented the applicant. Jeff Welcome of New England Cycle Works was also present. Ms. Bartlett detailed the location, history and layout of the site, which includes three existing commercial buildings with walk-out basements that face the back parking area. No new buildings and no new parking spaces were requested as part of the new application. The applicant proposed to expand the retail area into the existing buildings, which is presently a retail use. There would be no increase in service or parts areas. The present uses of each of the three buildings and the 1987 uses of the pre-existing permitted and non-permitted uses were detailed. Ms. Bartlett discussed the allowed increase of 50% in the non-permitted use, which was 18,400 s.f.; 27,000 s.f. or 49% increase is proposed. Ms. Bartlett said the requirements of the WRPD are met. Mr. Welcome said the increase in retail sales may increase the need for service, the present space allocated will be adequate. Groton Utilities is a co-applicant because the applicants proposed to expand their stormwater treatment plan onto the utility's property. Ms. Bartlett detailed the existing and proposed drainage systems. The new oil separator and catch basin system exceed the DEP's stormwater management manual requirements, and said the new system would be able to accommodate a 100-year storm. There is a maintenance agreement between both entities. The existing entrance to the site on Gold Star Highway will be closed. Staff noted for the record the comments from the Planning and Economic Development Commissions. Variances and wetland permits were granted for this project. Acting Chairman Haviland asked for public comments and there were none. The public hearing was closed at 7:30 p.m.

Motion to move section V-1. on the agenda to the next item, made by O'Neill, seconded by French, so voted unanimously.

III. CONSIDERATION OF PUBLIC HEARING

1. Special Permit #319, 1073 Buddington Road, and 0 Buddington Road, (New England Cycle Works, Applicant)

MOTION: To approve Special Permit #319, 661 Gold Star Highway to expand a non-permitted use in the Water Resource Protection District by 49.5% subject to the following condition:

1. A lip shall be installed at all doors to the basement of building A to provide 110% containment of the stored hazardous materials.

Findings and Reasons for Approval

The Commission finds that the 49.5% expansion of the non-permitted use is in compliance with section 6.12-6 of the Zoning Regulations in that the expansion does not in any way pose more of a threat to the existing public water supply source than does the existing use and that the expansion plan includes best management practices designed to prevent and control leaks and spills of material that may pose a threat to the public water supply source.

The Commission also finds that expansion of the non-permitted use complies with Section 8.3 of the Zoning Regulations in that it is in harmony with the character of the area and will not be detrimental to the orderly development of adjacent properties, it will not conflict with the normal traffic of the neighborhood, and it will not have a negative impact on the environment.

Motion made by O'Neill, seconded by French. Motion passed unanimously.

IV. PUBLIC HEARING

2. Special Permit #320, 13 Water Street, Mystic, PIN 261918306223, WDD Zone, and 0 Water Street, Mystic, PIN 261918306247, WDD Zone. Proposal is for alterations to an existing structure and an intensification of use to a standard restaurant. Review is per Section 6.3-3 of the Zoning Regulations. (85th Day Restaurant, Applicant) (CAM)

Acting Chairman Haviland read the legal ad.

Dan Meiser, owner of the 85th Day Restaurant, Michael McKinley, the architect, and Greg Fedus, engineer represented the applicants.

Mr. Meiser explained the proposed expansion of the existing restaurant in downtown Mystic to a farm-to-table, year-round restaurant. A 300 s.f. dining room and bar area will remain, and brick patios are proposed in front of the bar and dining areas. Mr. Meiser discussed the harmony with the existing neighborhood.

Greg Fedus, Fedus Engineering, detailed the proposed additions, pervious brick patios in front of the bar area and dining area, and explained the landscaping, site drainage, and parking arrangements, which include a leased area at 34 Water Street, which may be used for employee and possibly valet parking, and participation in the Mystic Art Association validation program.

The Commission took a five minute recess at 7:56 p.m. and the meeting resumed at 8:02 p.m.

Mr. Fedus discussed the WDD requirements, site improvements, and the CAM application. A Certificate of Appropriateness was granted by the Historic District Commission.

Michael McKinley, the architect, detailed the elevation, materials used and the Historic District Commission approval.

Frank Colonese, 15 ½ Water Street, president of the Powerhouse Condominium Association, expressed concern with the existing noise in the neighborhood, parking, outside dining and live loud music. The applicant said any music will be acoustic music, suitable for dining, and never outside.

Nancy Lucente, 2 New London Road, also expressed her concerns with the outdoor dining, lighting, and noise from patrons of other restaurants.

Edith Fairgrieve, Roland Street, Mystic, had concerns with the ledge removal. Mr. Fedus explained the proposed removal of ledge.

Staff distributed to Commissioners a letter of concerns from Lee Vincent, 1 New London Road

Staff advised the Commission that the parking issues had not yet been resolved at the time of their referral.

The public hearing was closed at 8:25 p.m.

Motion to move section V-II. On the agenda to the next item, made by O'Neill, seconded by French; motion passed unanimously.

V. CONSIDERATION OF PUBLIC HEARING

2. Special Permit #320, 13 Water Street, Mystic (85th Day Restaurant, Applicant) (CAM)

MOTION: To approve Special Permit #320, 13 Water Street, for the construction of two building additions and outside patios and to intensify the use to a standard restaurant.

Findings and Reasons for Approval

The Commission finds that the building additions and the intensification of use to a standard restaurant complies with Section 6.3 of the Zoning Regulations in that the restaurant will serve both Mystic residents and tourists; it will preserve and enhance the historic features of the existing building, and; it is in keeping with the goals of the Plan of Conservation and Development.

The Commission also finds that the building additions and the intensification of use complies with Section 8.3 of the Zoning Regulations in that it is in harmony with the

character of the area and will not be detrimental to the orderly development of adjacent properties, it will not be in conflict with the normal pedestrian and vehicular traffic pattern of the neighborhood, and it will not have a negative impact on the environment.

Motion made by Sutherland, seconded by O'Neill.

French said she was concerned with the intensification.

Motion passed 4 – 0 – 1, 1 abstention (French).

MOTION: To approve the Coastal Site Plan for the new structures and the intensification of use because it is consistent with all applicable coastal policies and includes all reasonable measures to mitigate adverse impacts on coastal resources.

Motion made by O'Neill, seconded by French. Motion passed unanimously.

VI. APPROVAL OF THE MINUTES OF Special Meeting of February 24, 2011

MOTION: To approve the minutes of February 24, 2011 as presented.

Motion made by O'Neill, seconded by Marquardt.

Motion to delete the second sentence of the first paragraph of Section III.1. made by French, seconded by O'Neill. Motion passed 3 – 0 – 2, 2 abstained (Sutherland, Haviland).

Motion to amend the last paragraph of Section III to include the item not discussed at the meeting was made by French, seconded by O'Neill.

Marquardt suggested that since the content of the document was not discussed, it should not be included in the minutes.

Motion failed, 1 – 2 – 2, 2 against (Marquardt, O'Neill), 2 abstained (Sutherland, Haviland)

French amended the motion to strike the entire paragraph, seconded by O'Neill.

Marquardt suggested omitting the first sentence, leaving the rest of the paragraph.

Motion passed 2 -1 -2, 1 against (Marquardt), 2 abstained (Haviland, Sutherland).

Motion to approve the minutes as amended made by French, seconded by O'Neill. Motion passed 3 – 2, 2 abstentions (Sutherland, Haviland).

VII. PUBLIC COMMUNICATIONS

Acting Chairman Haviland reiterated that anyone addressing the Commission should either submit their comments in writing, or speak, but not both.

Jim Furlong, 57 Fishtown Lane, Mystic, Director of GOSA, asked if OPDS staff intended to recognize CGS 8-2(b) in the Regulations, with respect to the requirement to

consider potential impact any proposed development may have on Long Island Sound. Mr. Furlong referenced www.cga.ct.gov/2005/pub/chap124.htm. Mr. Furlong also commented on the Town's intention to prepare LID regulations.

Sidney Van Zandt, 3 Front Street, Groton, distributed an article from The Day regarding oysters.

James Furlong, 57 Fishtown Lane, requested an explanation from the Acting Chairman with regard to the deviation from normal procedures where comments can be made or submitted in writing, and also requested that this not happen again.

Acting Chairman said this was to streamline the process, avoid duplication of materials, and he will use the same rule again if he runs the meeting. He assured Mr. Furlong that no one will ignore what the public says, or what is given to the Commission. Sutherland stated that she didn't think it's an efficient process.

French said she attended a meeting in Old Lyme on coastal resilience hosted by the Nature Conservancy.

Staff noted communication received from Attorney Eppinger, which was included in the agenda packets, regarding setbacks as they relate to cemeteries.

VIII. NEW BUSINESS

1. Election of Officers

MOTION: To reelect Hudecek as Chairman.

Motion made by Haviland, seconded by French; motion passed unanimously.

MOTION: To reelect Haviland as Vice Chair/Secretary.

Motion made by French, seconded by O'Neill, so voted unanimously.

2. Receipt of New Applications

No new applications have been submitted.

3. Flood Regulation Amendments

Staff distributed proposed revisions to Section 6.6 and Section 2 Definitions for the Commission's review and explained the purpose of these amendments. The new FEMA flood maps and regulations must be adopted and effective by July 18, 2011.

The Commission briefly discussed the strategy of potentially including provisions for requiring a one foot freeboard/ above the base flood elevation, which could be considered. Commissioner French said she felt strongly that in the matter of public safety, this should be considered. Staff said the regulation can always be modified after July, but they must have something in place to meet DEP's July deadline to meet the flood insurance program requirements.

The Acting Chairman requested that the minutes of this meeting go out to all members as soon as practical so that members not present will have the opportunity to contact staff and express their concerns before the proposal is officially referred to other agencies.

A public hearing date of June 1, 2011 was set.

IX. REPORT OF CHAIRMAN - None

X. REPORT OF STAFF

Staff spoke briefly about the process for developing LID regulations, noting the role of staff with regard to recommendations on regulations and the role of the Commission which would need to decide to adopt them. Haviland said the Commission values staff's input, but makes its own decisions.

Staff discussed the SCCOG LID seminar to be held on May 4th; if anyone is interested they should let staff know. Staff mentioned the Mystic Woods decision made by the court.

The Nature Conservancy coastal resilience tool software and staff's attendance at its presentation was discussed by staff. Staff reiterated to Commissioner French that Deb Jones, the environmental planner, did attend. Staff has been following the development of this tool for some time.

Staff said the department now has an intern working on a basic vulnerability assessment for the Town.

Staff distributed an email from Commissioner French, which requested a response to her email regarding 8-2(b), along with staff's response.

French asked staff if the Town would reimburse the fees for an LID workshop to be held on May 10th in North Haven. Staff asked her to provide the information to staff, since there is a free seminar being held at SCCOG in May. UConn CLEAR is also doing an LID webinar.

III. ADJOURNMENT

Motion to adjourn at 9:25 p.m. made by O'Neill, seconded by French, so voted unanimously.

Rich Haviland, Secretary
Zoning Commission

Prepared by Debra Gilot, Office Assistant III